

UNITED STATES DISTRICT COURT  
District of New Jersey

UNITED STATES OF AMERICA

v.

Case Number 2:09-103-01

EDWIN ANDRES PENA  
aka "Javier Alejandro Sanchez Rinco"  
aka "David Hauster"  
aka "Renato Moreno"

Defendant.

**JUDGMENT IN A CRIMINAL CASE**  
(For Offenses Committed On or After November 1, 1987)

The defendant, EDWIN ANDRES PENA, was represented by Michael Chazen, Esq. (Retained).

On motion of the United States the court has dismissed count(s) 2, 4-20.

The defendant pled guilty to count(s) 1, 3 of the INDICTMENT on 2/3/10. Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number(s)</u>
18:371	Conspiracy to defraud the United States	11/04-5/06	1
18:1343 and 2	Wire fraud related to routing calls on the VOIP telecom providers	7/25/05, 8/4/05, 1/17 and 1/20/06, 8/5/06, 4/28/06 and 1/20/06	3

As pronounced on 9/24/10, the defendant is sentenced as provided in pages 2 through 7 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$200.00, for count(s) 1, 3, which shall be due immediately. Said special assessment shall be made payable to the Clerk, U.S. District Court.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this the 24 day of September, 2010.

  
SUSAN D. WIGENTON  
United States District Judge

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**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 60 months on Count One and 120 months on Count Three, to be served concurrently.

The defendant shall remain in custody pending service of sentence.

**RETURN**

I have executed this Judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

At \_\_\_\_\_ Defendant delivered on \_\_\_\_\_ To \_\_\_\_\_, with a certified copy of this Judgment.

\_\_\_\_\_  
United States Marshal

By \_\_\_\_\_  
Deputy Marshal

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### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 3 years, on each of Counts One and Three, to run currently.

Within 72 hours of release from custody of the Bureau of Prisons, the defendant shall report in person to the Probation Office in the district to which the defendant is released.

While on supervised release, the defendant shall comply with the standard conditions that have been adopted by this court as set forth below.

Based on information presented, the defendant is excused from the mandatory drug testing provision, however, may be requested to submit to drug testing during the period of supervision if the probation officer determines a risk of substance abuse.

If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remains unpaid at the commencement of the term of supervised release and shall comply with the following special conditions:

#### **COMPUTER MONITORING**

You shall submit to an initial inspection by the U.S. Probation Office, and to any unannounced examinations during supervision, of your computer equipment. This includes, but is not limited to, personal computer, personal digital assistants, entertainment consoles, cellular telephones, and/or any electronic media device which is owned or accessed by you. You shall allow the installation on your computer of any hardware or software systems which monitor computer use. You shall pay the costs of the computer monitoring program. You shall abide by the standard conditions of computer monitoring. Any dispute as to the applicability of this condition shall be decided by the Court.

#### **GAMBLING RESTRICTIONS AND REGISTRATION ON EXCLUSION LISTS**

You shall refrain from all gambling activities, legal or otherwise, to include the purchase or receipt of lottery tickets. You shall register on the self-exclusion lists maintained by the New Jersey Casino Control Commission and Racetrack Commission within 60 days of the commencement of supervision and remain on these lists for the duration of supervision. The Probation Officer shall supervise your compliance with this condition.

#### **COOPERATION WITH IMMIGRATION AND CUSTOMS ENFORCEMENT**

You shall cooperate with Immigration and Customs Enforcement to resolve any problems with your status in the United States. You shall provide truthful information and abide by the rules and regulations of Immigration and Customs Enforcement. If deported, you shall not re-enter the United States without the written permission of the Attorney General. If you re-enter the United States, you shall report in person to the nearest U.S. Probation Office within 48 hours.

#### **NEW DEBT RESTRICTIONS**

You are prohibited from incurring any new credit charges, opening additional lines of credit, or incurring any new monetary loan, obligation, or debt, by whatever name known, without the approval of the U.S. Probation Office. You shall not encumber or liquidate interest in any assets unless it is in direct service of the fine and/or restitution obligation or otherwise has the expressed approval of the Court.

#### **SELF-EMPLOYMENT/BUSINESS DISCLOSURE**

You shall cooperate with the U.S. Probation Office in the investigation and approval of any position of self-employment, including any independent, entrepreneurial, or freelance employment or business activity. If approved for self-employment, you shall provide the U.S. Probation Office with full disclosure of your self-employment and other business records, including, but not limited to, all of the records identified in the Probation Form 48F (Request for Self Employment Records),

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or as otherwise requested by the U.S. Probation Office.

#### OCCUPATIONAL RESTRICTIONS

As a further special condition of supervised release, the defendant is to refrain from holding any employment in the information technology industry, to include computer network maintenance and programming, for the term of supervised release.

*{As an underlying foundation for this special condition, the Court must find that: (1) a reasonably direct relationship existed between the defendant's occupation, business or profession and the conduct relevant to the offense of conviction; (2) imposition of such a restriction is reasonably necessary to protect the public because there is reason to believe that, absent such restriction, the defendant will continue to engage in unlawful conduct similar to that for which the defendant was convicted; and (3) that the time frame and structure of the special condition is for the minimum time frame and to the minimum extent necessary to protect the public.}*

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**STANDARD CONDITIONS OF SUPERVISED RELEASE**

While the defendant is on supervised release pursuant to this Judgment:

- 1) The defendant shall not commit another federal, state, or local crime during the term of supervision.
- 2) The defendant shall not illegally possess a controlled substance.
- 3) If convicted of a felony offense, the defendant shall not possess a firearm or destructive device.
- 4) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 5) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 6) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 7) The defendant shall support his or her dependents and meet other family responsibilities.
- 8) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 9) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 10) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances.
- 11) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 12) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 13) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 14) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 15) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 16) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- (17) You shall cooperate in the collection of DNA as directed by the Probation Officer.

*(This standard condition would apply when the current offense or a prior federal offense is either a felony, any offense under Chapter 109A of Title 18 (i.e., §§ 2241-2248, any crime of violence [as defined in 18 U.S.C. § 16], any attempt or conspiracy to commit the above, an offense under the Uniform Code of Military Justice for which a sentence of confinement of more than one year may be imposed, or any other offense under the Uniform Code that is comparable to a qualifying federal offense);*

- (18) Upon request, you shall provide the U.S. Probation Office with full disclosure of your financial records, including co-mingled income, expenses, assets and liabilities, to include yearly income tax returns. With the exception of the financial accounts reported and noted within the presentence report, you are prohibited from maintaining and/or opening any additional individual

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and/or joint checking, savings, or other financial accounts, for either personal or business purposes, without the knowledge and approval of the U.S. Probation Office. You shall cooperate with the Probation Officer in the investigation of your financial dealings and shall provide truthful monthly statements of your income. You shall cooperate in the signing of any necessary authorization to release information forms permitting the U.S. Probation Office access to your financial information and records;

- (19) As directed by the U.S. Probation Office, you shall participate in and complete any educational, vocational, cognitive or any other enrichment program offered by the U.S. Probation Office or any outside agency or establishment while under supervision;
- (20) You shall not operate any motor vehicle without a valid driver's license issued by the State of New Jersey, or in the state in which you are supervised. You shall comply with all motor vehicle laws and ordinances and must report all motor vehicle infractions (including any court appearances) within 72 hours to the U.S. Probation Office;

*For Official Use Only - - U.S. Probation Office*

Upon a finding of a violation of probation or supervised release, I understand that the Court may (1) revoke supervision or (2) extend the term of supervision and/or modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions, and have been provided a copy of them.

You shall carry out all rules, in addition to the above, as prescribed by the Chief U.S. Probation Officer, or any of his associate Probation Officers.

(Signed) \_\_\_\_\_  
 Defendant Date

\_\_\_\_\_  
 U.S. Probation Officer/Designated Witness Date

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**RESTITUTION AND FORFEITURE****RESTITUTION**

The defendant shall make restitution in the total amount of \$1,012,311.10. The Court will waive the interest requirement in this case. Payments should be made payable to the **U.S. Treasury** and mailed to Clerk, U.S.D.C., 402 East State Street, Rm 2020, Trenton, New Jersey 08608, for distribution to the following victims:

**Name of Payee (Victim)****Amount of Restitution**

See Attached List

\$1,012,133.10 - Total

The amounts ordered represent the total amounts due to the victims for these losses. The defendant's restitution obligations shall not be affected by any restitution payments made by other defendants in this case, except that no further payments shall be required after the sums of the amounts actually paid by all defendants has fully satisfied these losses. The following defendant in the following case may be subject to restitution orders to the same victims for these same losses:

Robert Moore

Cr. No. 07-195-01

The restitution is due immediately. It is recommended that the defendant participate in the Bureau of Prisons Inmate Financial Responsibility Program (IFRP). If the defendant participates in the IFRP, the restitution shall be paid from those funds at a rate equivalent to \$25 every 3 months. In the event the entire restitution is not paid prior to the commencement of supervision, the defendant shall satisfy the amount due in monthly installments of no less than \$250, to commence 30 days after release from confinement.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Net2Phone, Inc. \$344,005.00  
520 Broad Street  
Newark, NJ 07102

Unified Worldwide Transport \$192,115.41  
Attn: Ann Yanick-Leone  
1604 26th Street  
Santa Monica, CA 90404

Latinode Communications \$75,500.00  
Attn: Manuel Salvoch  
9800 NW 41<sup>st</sup> Street, Suite 200  
Doral, FL 33178

Novatel \$36,515.71  
Attn: Mark G. Session, Esq.  
11550 IH10 West, Suite 110  
San Antonio, TX 78230

Calls for Less \$234.00  
Attn: Kathi Jones  
725 North Derby Lane  
P.O. Box 1550  
North Sioux City, SD 57049-1550

VoEx \$157,823.09  
Attn: Jason Brown  
1100 Dexter Avenue North  
Seattle, WA 98109

Network Management Inc. \$6,075.17  
Attn: Alex Parsinia  
PO BOX 27117  
Salt Lake City, UT 84127-0117

Multiphone Latin America, Inc. \$27,142.72  
2051 NW 112<sup>th</sup> Avenue, #114  
Miami, FL 33172

RS and Associates International	\$4,900.00
Attn: Joao Nunes	
200 SE 1st Street	
Suite 204	
Miami, FL 33131	

Go2Tel	\$40,000.00
Attn: Camilo Medina	
1100 NW 163 <sup>rd</sup> Drive	
Miami, FL 33169	

Next Communications	\$128,000.00
100 N. Biscayne Boulevard	
Miami, FL 33132	